

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Amendment of Section 73.202(b))

Table of Allotments)

FM Broadcast Stations,)

Key Colony Beach, Key Largo and)

Marathon, Florida)

MM Docket No. 93-136

RM-8161

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch

JOINT REPLY COMMENTS

Okeechobee Broadcasters, Inc. ("OBI"), licensee of WOKC-FM, Indiantown, FL, Sunshine Broadcasting, Inc. ("Sunshine"), licensee of WSUV, Fort Myers Villas, FL, and Jupiter Broadcasting Corporation ("JBC"), permittee of WADY, Jupiter, FL (collectively, "Commenters") by counsel and pursuant to Sections 1.405 and 1.420 of the rules, hereby file their Joint Reply Comments in MM Docket 93-136, RM 8161. In support whereof, the following is shown.

Spanish Broadcasting System of Florida, Inc. ("SBSF"), licensee of WZMQ(FM), Key Largo, filed a petition for rule making with the Commission seeking to amend the Table of Allotments as follows:

	Channel No.	
	<u>Present</u>	<u>Proposed</u>
Key Colony Beach	288C2	280C2
Key Largo	280C2	292C2
Marathon	292A	288A

In response to the Commission's Notice of Proposed Rulemaking, FCC DA 93-532, (released June 3, 1993), SBSF filed Comments

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reaffirming their interest in the proposed changes and providing the declarations of two engineers who stated it was their belief that the receiver induced third order intermodulation interference ("RITOIE") present in the vicinity of the WZMQ(FM) transmitter site could be cured with a change in the channel of WZMQ(FM), as requested by SBSF. Neither engineer states that channel 292C2 is the only, or best, channel to which WZMQ(FM) should be moved. Nor is any claim made that there are no alternative means for load control.¹

Commenters, in their Joint Comments and Counterproposal, petitioned the Commission to amend the FM Table of Allotments as follows:

	Channel No.	
	<u>Present</u>	<u>Proposed</u>
Indiantown	276C2	276C1
Naples	276C3	292C3
Fort Myers Villas	292A	275C2
Clewiston	292A	258A
Jupiter	258A	292C3

As set forth in the Joint Comment and Counterproposal submitted by Commenters in this proceeding, its proposal would allow for new service to 1,339,676 people, while SBSF's proposal would result in no new service. Commenters hereby reaffirm their desire to have the above modifications to the Table of Allotments

¹ See Comments of Florida Keys Electric Cooperative Association, Incorporated, filed June 15, 1993.

adopted;² reaffirm that upon grant of the changes they will promptly apply for and build the newly authorized facilities; and reaffirm their obligation and willingness to pay for the costs incurred by WAFC, Clewiston, FL and WSGL, Naples, FL in moving to their new channels.

A counterproposal was also filed by Key Chain, Inc. ("Key Chair") proposing the substitution of Channel 288C2 for Channel 292A at Marathon. In effect, this was an expression of support for the SBSF proposal which substituted Channel 288A for 292A at Marathon because Key Chain's proposal could only be accomplished in conjunction with SBSF's proposal. (Otherwise Channel 288C2 would be allocated to the adjacent communities of Marathon and Key Colony Beach.) However, Key Chain's desire to upgrade to C2 status can be accommodated on other channels, for example, Channel 237C2. See attached Engineering Exhibit. Therefore, Key Chain's upgrade can be accomplished whether the SBSF proposal or the Commenters' counterproposal is adopted.

As an alternative, the FCC, at its discretion, can (1) modify the license of WZMQ(FM) at Key Largo to a new channel which SBSF's engineers state would solve the RITOIE problem with WCTH(FM); (2) modify the license of WAVK(FM) at Marathon, upgrading it to a Class C2 facility as requested, and (3) grant all of the changes proposed by the Commenters in their proposed changes, with new service to

² This assumes, of course, that JBC will not be subject to competing expressions of interest in its channel.

some 1,340,000 people. This solution involves:

	Channel No.			
	<u>Present</u>	<u>SBSF Proposal</u>	<u>Key Chain Proposal Solution</u>	
Key Colony Beach	288C2	280C2		280C2
Key Largo	280C2	292C2		288C2
Marathon	292A	288A	288C2	237C2

The above modifications would also remove any conflict with Commenters' counterproposal and should satisfy all parties.

Exhibit A of the Engineering Exhibit shows the distance separations for Channel 237C2 at Marathon. Using the reference point Key Chain used in its counterproposal, the allocation is fully spaced.

Exhibit B of the Engineering Exhibit shows the distance separations for Channel 288C2 at Key Largo. Using the reference point SBSF used in its petition for rulemaking, the allocation is fully-spaced.

In summary, (1) the changes requested by Commenters in their counterproposal will allow for greatly improved service to the public and new service to 1,339,675 people by upgrading 3 existing stations; (2) SBSF's proposal will result in no new service to anyone; (3) the RITOIE at Key Largo can be solved by substituting a channel that is not mutually exclusive with Commenters' counterproposal; and (4) the upgrade at Marathon can be accomplished on a channel that is not mutually exclusive with Commenters' counterproposal.

WHEREFORE, the parties hereto, believing this counterproposal

to be of greater benefit to the listening public, respectfully
petition the Commission to adopt the proposed changes to the FM
Table of Allotments contained in their Counterproposal.

Respectfully submitted,

**OKEECHOBEE BROADCASTERS, INC.
SUNSHINE BROADCASTING, INC.
JUPITER BROADCASTING CORPORATION**

By: 

Robert J. Rini

Rini & Coran, P.C.
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Date: August 23, 1993

Their Attorney

EXHIBIT "EE"
ENGINEERING EXHIBIT
REPLY COMMENTS FOR A COUNTERPROPOSAL TO MM DOCKET NO. 93-136
SUNSHINE BROADCASTING, INC., OKEECHOBEE BROADCASTERS, INC. AND
JUPITER BROADCASTING CORPORATION

TO AMEND THE FM TABLE OF ALLOTMENTS AT:

OKEECHOBEE, FLORIDA
NAPLES, FLORIDA
FORT MYERS VILLAS, FLORIDA
CLEWISTON, FLORIDA
JUPITER, FLORIDA

AUGUST, 1993

ENGINEERING STATEMENT
COUNTERPROPOSAL IN DOCKET 93-136

This Engineering Exhibit has been prepared on behalf of Sunshine Broadcasting, Inc. ("Sunshine"), Licensee of WSUV(FM), Fort Myers Villas, Florida, Okeechobee Broadcasters, Inc. ("OBI") Licensee of WOKC-FM, Okeechobee, Florida (Indiantown, Florida allocation) and Jupiter Broadcasting Corporation (JBC), Permittee of WADY, Jupiter, Florida in support of a counterproposal to MM Docket No. 93-136.

The following changes are proposed by Spanish Broadcasting System of Florida, Inc. (SBSF), in Docket No. 93-136:

	Channel No.	
	Present	Proposed
Key Colony Beach, Fl.	288C2	280C2
Key Largo, Fl.	280C2	292C2
Marathon, Fl.	292A	288A

The following changes were counterproposed:

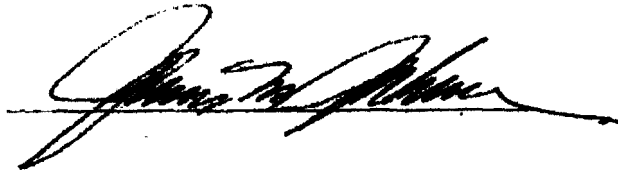
	Channel No.	
	Present	Proposed
Indiantown, Fl.	276C2	276C1
Naples, Fl.	276C3	292C3
Fort Myers Villas Fl.	292A	275C2
Clewiston, Fl.	292A	258A
Jupiter, Fl.	258A	292C3
Marathon, Fl.	292A	288C2

In reviewing the Docket, it appears that the Commission could resolve the situation by substituting Channel 288C2 for 280C2 at Key Largo and 237C2 for 292A at Marathon. Such a change would solve the "Ritole" problem being experienced by WCTH(FM),

Engineering Statement
Docket No. 93-136
Page 2

Plantation Key, while allowing all the other proposals to be implemented.

Exhibits A and B are channel studies for the above mentioned solution.

A handwritten signature in dark ink, appearing to read "James M. Johnson", is written over a horizontal line.

JAMES M. JOHNSON & ASSOCIATES
BROADCAST CONSULTANTS

EXHIBIT "A"

CHANNEL 288C2 AT WZMQ CHANNEL 292 RM SITE

REFERENCE	CLASS C2	DISPLAY DATES
24 57 20 N		DATA 07-28-93
80 34 50 W	Current rules spacings	SEARCH 08-21-19
----- CHANNEL 288 -105.5 MHz -----		

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
WKKB.C	288C2	Key Colony Beach	FL	242.5	59.72	190.0	-130.28 *
DE288	288C2	Key Colony Beach	FL	242.5	59.72	190.0	-130.28 *
AD288	288A	Marathon	FL	241.3	52.32	166.0	-113.68 *
AD288	288C2	Naples Park	FL	321.2	193.42	190.0	3.42
WHQT	286C	Coral Gables	FL	18.4	118.04	105.0	13.04
DE288	288C3	Naples Park	FL	321.2	193.42	177.0	16.42
WIXI.C	288C3	Naples Park	FL	321.2	193.42	177.0	16.42
WAXYFM	290C	Fort Lauderdale	FL	19.6	121.95	105.0	16.95
WIXI	288A	Naples Park	FL	321.2	193.42	166.0	27.42

JAMES M. JOHNSON & ASSOCIATES
BROADCAST CONSULTANTS

EXHIBIT "B"

CHANNEL 237C2 AT WAVK CHANNEL 288 RM SITE

REFERENCE	CLASS C2	DISPLAY DATES
24 43 44 N		DATA 07-28-93
81 02 05 W	Current rules spacings	SEARCH 08-21-19
----- CHANNEL 237 - 95.3 MHz -----		

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
WOLZ	237C1	Fort Myers	FL	332.7	236.28	224.0	12.28
WXDJ	239C1	Homestead	FL	32.4	106.45	79.0	27.45
WXDJ.C	239C1	Homestead	FL	32.4	106.45	79.0	27.45

CERTIFICATE OF SERVICE

I, Patricia Moser, an administrator with the law firm of Rini & Coran, do hereby certify that I caused a copy of the foregoing "JOINT REPLY COMMENTS" to be mailed, first-class, postage prepaid this 23rd day of August 1993, to the following:

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Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8322
Washington, D.C. 20554

Ms. Nancy J. Walls,*
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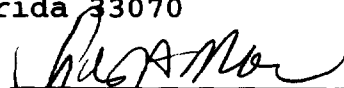
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*by hand


Patricia Moser